

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

1. The petitioner is a single individual who is employed in guest services by a local hotel.
2. Petitioner applied for health care assistance on or about November 3, 2009. As part of the application, petitioner detailed his gross earnings for the weekly pay periods of October 2, 2009 through October 30, 2009.
3. K.P. reviewed petitioner's application. K.P.

determined that petitioner's monthly gross earnings were \$1,581.58. K.P. applied the standard employment deduction of \$90 per month leaving countable monthly income of \$1,491.58. Petitioner's countable income exceeded the Vermont Health Access Plan (VHAP) income maximum for a one-person household with no minor children of \$1,359.00 per month.

4. The Department sent petitioner a Notice of Decision dated November 5, 2009 that he was over-income for VHAP but eligible for Employer-Sponsored Insurance Assistance.

5. Petitioner complied with the request for Plan Information from OVHA. Petitioner's employer provides health insurance through Blue Care Plus HMO.

6. OVHA sent petitioner a Notice of Decision dated November 13, 2009 that his share of the monthly premium was \$60 and that OVHA's amount of assistance was \$147.25.

7. Petitioner requested a fair hearing on or about November 16, 2009.

8. Petitioner is concerned that he cannot afford the deductible. Petitioner applied for assistance during foliage season and was able to work full-time. Petitioner is facing decreased hours and does not know whether he will remain eligible for his employer's health insurance based on his present hours. Petitioner was informed that he could apply

and provide updated information to the Health Access Eligibility Unit for a redetermination of his benefits.

ORDER

OVHA's decision is affirmed.

REASONS

The Legislature enacted 33 V.S.A. § 1974(a) which mandates enrollment in employer-sponsored health insurance for those individuals who are enrolled in or eligible for VHAP or have income below 300 percent of the Federal Poverty Limit (FPL) and who have access to "approved" employer sponsored insurance. The Legislature has given the Department the authority to approve ESIA plans provided those plans offer benefits that are substantially similar to VHAP or Catamount benefits. 33 V.S.A. § 1974(c)(4)(A).

Petitioner is not questioning the coverage comparability of the employer-sponsored insurance plan to state plans. Petitioner did question the use of gross income rather than net income in his case. The ESIA regulations state that a household's income shall be calculated in accordance with VHAP rules. W.A.M. § 5916. Earned income is defined in W.A.M. § 5321(C) as follows:

Earned income is defined as income prior to any

deductions for income taxes, FICA, insurance or any other deductions voluntary or involuntary. . .

A standard employment expense deduction of \$90 is allowed. Based on the regulations, the Department correctly determined petitioner's countable income for ESIA.

Based on the information petitioner provided to OVHA, OVHA correctly determined that petitioner was eligible for ESIA. Petitioner's continuing eligibility and benefit levels can be redetermined if there is a change in circumstances; petitioner need only provide new information through a new application.

OVHA has correctly applied the regulations in requiring the petitioner to enroll for ESIA. As a result, OVHA's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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